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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 2878 of 2004

PETITIONER : Sabbir Khan, aged 32 years, son of late Shri Ayyub Khan, resident of Baherapara, Dharmjaigarh, Tehsil Dharmjaigarh, District Raigarh (Chhattisgarh)

VERSUS

RESPONDENTS : (1) State of Chhattisgarh, through the Secretary, department of Forest, Raipur.
(2) Conservator of Forest, Bilaspur Circle, Bilaspur (Chhattisgarh)
(3) Divisional Forest Officer, Raigarh Forest Division, Raigarh (Chhattisgarh)
(4) District Collector, Raigarh, district Raigarh (Chhattisgarh)
(5) Divisional Forest Officer, Dharmjaigarh Forest Division, Dharmjaigarh (Chhattisgarh)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

Single Bench: Hon'ble Justice Shri Satish K. Agnihotri.

Present: Shri Somnath Verma, Advocate for the petitioner.
Shri Satish Gupta, Dy. Govt. Advocate for the State / respondents.

ORDER

(Passed on 10th day of May, 2007)

1. The father of the petitioner, Late Shri Ayub Khan, while working as Forest Guard at Raigarh Forest Division, died on 10.03.1987, in harness. The respondent no. 3, directed the elder brother of the petitioner namely Shri Akbar Khan for sending complete application for compassionate appointment. The respondent no. 3 sent a letter on 23.6.1999 to the respondent no. 4 for appointing the petitioner on compassionate basis. There were several letters exchanged between the petitioner and the respondent State officers. Ultimately, the case of the petitioner was rejected before October 2000, by the then State of Madhya Pradesh. After creation of the State of Chhattisgarh w.e.f. 01.11.2000, the petitioner made several representations which, according to the petitioners have not been considered.

2. Be that as it may. It is well settled that the appointment on compassionate ground is not a method of recruitment, but, is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee for destitution. In other words, the

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object of compassionate appointment is not to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

3. In **Haryana State Electricity Board and another Vs. Hakim Singh {91997) 8 SCC 85}** the Supreme Court held that "the whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member."

4. The Supreme Court in the case of State of J & K and others Vs. Sajad Ahmd Mir {(2006) 5 SCC 766}, in para 11 has held as under:

> "11.....it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and complete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should not be departed from except where compelling circumstances demand, such as, death of the sole bread winner, the family survived and the family suffering because of the setback. Once it is proved that inspite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

5. Applying the well settled principles of law as enunciated by the Supreme Court in the case (supra), admittedly, the father of the petitioner died on 10.03.1987 and the petitioner has approached this court after a period of 17 years. The petitioner and his family members have sustained themselves financially from other sources of income.

6. As a result and in view of hereinabove mentioned reasons, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Amit